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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/626,194	07/24/2003	Craig William Fellenstein	AUS920030365US1	1807

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EXAMINER
FEARER, MARK D

ART UNIT	PAPER NUMBER
2112	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/19/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

PTOL-90A (Rev. 10/06)

	Application No.	Applicant(s)
Office Action Summary	10/626,194	FELLENSTEIN ET AL.
	Examiner	Art Unit	
	Mark D. Fearer	2112	

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>24 July 2003</u>.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-27</u> is/are pending in the application.

  4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-27</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on <u>24 July 2003</u> is/are: a)☒ accepted or b)☐ objected to by the Examiner.

  Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

  Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

  a)☐ All b)☐ Some * c)☐ None of:

    1.☐ Certified copies of the priority documents have been received.

    2.☐ Certified copies of the priority documents have been received in Application No. _____.

    3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

  * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☒ Information Disclosure Statement(s) (PTO/SB/08)
  Paper No(s)/Mail Date <u>July 24, 2003</u>.

4)☐ Interview Summary (PTO-413)
  Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application

6)☐ Other: _____ .

DETAILED ACTION

Information Disclosure Statement

The information disclosure statement submitted on 24July2003 has been considered by the Examiner and made of record in the application file.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-27 are rejected under 35 U.S.C. 102(e) as being anticipated by Matsliach et al. (US patent 6879994).

Consider claim 1. Matsliach et al. clearly shows and discloses a programmable apparatus for identifying optimal times for an end user to contact a target user of a messaging system, comprising: an event monitor to detect messaging system events and to record the messaging system events in a database ("Upon detection of a new user event, process 71 continues from step 76 to step 80 wherein user computer 14 determines what type of user event has occurred. If the user has asked to change his/her user profile, process 71 continues to step 80a. The updated information is input and then transmitted to

server 10 (step 80a-1). Then the information is stored both locally on user
computer 14 and in a user database of server 10 (step 80a-2), after which
process 71 returns to step 76." Column 13 lines 45-52); a usage·processor to
compile statistical usage data from the events in the database ("The information
is processed to determine the current "hot" Internet sites or pages at or near real-
time, the popular sites on a historical basis, i.e., over·the past N days or hours,
various usage trends, etc." column 3 lines 40-43); and a usage indicator to
display the target user's statistical usage data on an output device ("This
information can be presented to users in the form of, e.g., a histogram displayed
on the user's screen, and integrated with link maps, directory information, and
other navigation tools." column 3 lines 43-46).

Consider claim 2. Matsliach et al. clearly shows and discloses an instant
messaging system ("A variety of different chat or instant-messaging technologies
can be used, ..." column 9 lines 30-31).

Consider claim 3. Matsliach et al. clearly shows and discloses an e-mail
messaging system ("User demographics: age range (and optionally, the exact
age of the user), gender, nickname, user location (state), spoken languages,
occupation, zodiac sign, family status, a mood of the user, a co-branded
community to which the user belongs and an e-mail address of the user." column
6 lines 49-54).

Consider claim 4. Matsliach et al. clearly shows and discloses an
electronic bulletin board system ("According to the present invention, a user can

leave one or more "notes" for a particular web page, as if the page contained a

virtual bulletin board." column 4 lines 43-45).

Consider claim 5. Matsliach et al. clearly shows and discloses a monitor in

which the user has the ability to turn off recording of the user's events ("At step

30, the system continuously monitors whether an active status of the web page

currently being viewed changes (e.g. whether the user switches to a new URL or

opens a new browser window and views a different page). When the active

status of a current page does not change, but the user opens a new browser

window, the process continues directly to step 34, discussed below. However,

when the active status of the current web page changes, the process first

completes step 32 wherein the system toggles the active page timer by, for

example, turning off the timer for the previously viewed page and beginning a

timing of the access to the newly accessed web page. In the alternative, at step

32, the active page time may simply be turned off if the user closes all open

browsers." column 11 lines 4-17).

Consider claim 6. Matsliach et al. clearly shows and discloses a watch list

("In addition, a list of "hot" sites can be generated based on popularity and

indexed according to common demographic parameters, such as a user's age,

gender, and occupation. Various hot site lists can be generated according to

topical category, such as business, sports, gaming, etc." column 6 lines 36-41).

Consider claim 7. Matsliach et al. clearly shows and discloses the event

monitor only recording events matching a type included in the watch list ("Real-

time hot site information is sent to users in response to queries. The query can

be topic specific or global. For a global "all the net" query, all pages that contain

registered users, including those not in the catalog, are scanned to determine the

"hottest" pages." column 6 lines 31-46).

Consider claim 8. Matsliach et al. clearly shows and discloses an access

list ("Individual users can compile "buddy lists" of other ICQ users and are

informed when one of those IDs has logged on or off." column 2 lines 37-39).

Consider claim 9. Matsliach et al. clearly shows and discloses an access

list ("Next, server 10 determines whether the updated user information includes

additional buddy list members (Step 96). If not, the process 89 continues to step

98 below. If so, process 89 continues to step 97 where server 10 determines the

status of the additional users listed in the new buddy list and transmits the

information to user computer 14, after which process 89 continues to step 98. At

step 98, server 10 transmits a notification to user computer 14 that the updated

user parameters were successfully received and stored." column 16 line 13 –

column 17 line 4).

Consider claim 10. Matsliach et al. clearly shows and discloses a usage

indicator saving the target user's statistical usage in a summary file ("Various

other types of information can be returned in accordance with bandwidth

considerations, user preferences, etc., such as the number of users which are

not in an "invisible" status, the number of invisible users in the page, the number

of notes left in the page, the number of users in the site which are not invisible,

and the number of invisible users of the site. The received information is

displayed to the user, preferably in a graphical format (step 28), by the client

software, ..." column 10 lines 43-51).

Consider claim 11. Matsliach et al. clearly shows and discloses a

computer readable memory for causing a computer to identify optimal times for

an end user to contact a target user of a messaging system, comprising: an

event monitor to detect messaging system events and to record the messaging

system events in a database ("Upon detection of a new user event, process 71

continues from step 76 to step 80 wherein user computer 14 determines what

type of user event has occurred. If the user has asked to change his/her user

profile, process 71 continues to step 80a. The updated information is input and

then transmitted to server 10 (step 80a-1). Then the information is stored both

locally on user computer 14 and in a user database of server 10 (step 80a-2),

after which process 71 returns to step 76." Column 13 lines 45-52); a usage

processor to compile statistical usage data from the events in the database ("The

information is processed to determine the current "hot" Internet sites or pages at

or near real-time, the popular sites on a historical basis, i.e., over the past N days

or hours, various usage trends, etc." column 3 lines 40-43); and a usage indicator

to display the target user's statistical usage data on an output device ("This

information can be presented to users in the form of, e.g., a histogram displayed

on the user's screen, and integrated with link maps, directory information, and

other navigation tools." column 3 lines 43-46).

Consider claim 12. Matsliach et al. clearly shows and discloses a

computer readable memory for causing a computer to be an instant messaging

system ("A variety of different chat or instant-messaging technologies can be used, ..." column 9 lines 30-31).

Consider claim 13. Matsliach et al. clearly shows and discloses a computer readable memory for causing a computer to be an e-mail messaging system ("User demographics: age range (and optionally, the exact age of the user), gender, nickname, user location (state), spoken languages, occupation, zodiac sign, family status, a mood of the user, a co-branded community to which the user belongs and an e-mail address of the user." column 6 lines 49-54).

Consider claim 14. Matsliach et al. clearly shows and discloses a computer readable memory for causing a computer to be an electronic bulletin board system ("According to the present invention, a user can leave one or more "notes" for a particular web page, as if the page contained a virtual bulletin board." column 4 lines 43-45).

Consider claim 15. Matsliach et al. clearly shows and discloses a computer readable memory for causing a computer to be a monitor in which the user has the ability to turn off recording of the user's events ("At step 30, the system continuously monitors whether an active status of the web page currently being viewed changes (e.g. whether the user switches to a new URL or opens a new browser window and views a different page). When the active status of a current page does not change, but the user opens a new browser window, the process continues directly to step 34, discussed below. However, when the active status of the current web page changes, the process first completes step 32 wherein the system toggles the active page timer by, for example, turning off

the timer for the previously viewed page and beginning a timing of the access to the newly accessed web page. In the alternative, at step 32, the active page time may simply be turned off if the user closes all open browsers." column 11 lines 4-17).

Consider claim 16. Matsliach et al. clearly shows and discloses a computer readable memory for causing a computer to be a watch list ("In addition, a list of "hot" sites can be generated based on popularity and indexed according to common demographic parameters, such as a user's age, gender, and occupation. Various hot site lists can be generated according to topical category, such as business, sports, gaming, etc." column 6 lines 36-41).

Consider claim 17. Matsliach et al. clearly shows and discloses a computer readable memory for causing a computer to be an event monitor only recording events matching a type included in the watch list ("Real-time hot site information is sent to users in response to queries. The query can be topic specific or global. For a global "all the net" query, all pages that contain registered users, including those not in the catalog, are scanned to determine the "hottest" pages." column 6 lines 31-46).

Consider claim 18. Matsliach et al. clearly shows and discloses a computer readable memory for causing a computer to be a computer readable memory comprising an access list ("Individual users can compile "buddy lists" of other ICQ users and are informed when one of those IDs has logged on or off." column 2 lines 37-39).

Consider claim 19. Matsliach et al. clearly shows and discloses a computer readable memory for causing a computer to be an access list ("Next, server 10 determines whether the updated user information includes additional buddy list members (Step 96). If not, the process 89 continues to step 98 below. If so, process 89 continues to step 97 where server 10 determines the status of the additional users listed in the new buddy list and transmits the information to user computer 14, after which process 89 continues to step 98. At step 98, server 10 transmits a notification to user computer 14 that the updated user parameters were successfully received and stored." column 16 line 13 – column 17 line 4).

Consider claim 20. Matsliach et al. clearly shows and discloses a computer readable memory for causing a computer to be a usage indicator saving the target user's statistical usage in a summary file ("Various other types of information can be returned in accordance with bandwidth considerations, user preferences, etc., such as the number of users which are not in an "invisible" status, the number of invisible users in the page, the number of notes left in the page, the number of users in the site which are not invisible, and the number of invisible users of the site. The received information is displayed to the user, preferably in a graphical format (step 28), by the client software, ..." column 10 lines 43-51).

Consider claim 21. Matsliach et al. clearly shows and discloses a method for identifying optimal times for an end user to contact a target user of a messaging system, comprising: an event monitor to detect messaging system events and to record the messaging system events in a database ("Upon

detection of a new user event, process 71 continues from step 76 to step 80

wherein user computer 14 determines what type of user event has occurred. If

the user has asked to change his/her user profile, process 71 continues to step

80a. The updated information is input and then transmitted to server 10 (step

80a-1). Then the information is stored both locally on user computer 14 and in a

user database of server 10 (step 80a-2), after which process 71 returns to step

76." Column 13 lines 45-52); a usage processor to compile statistical usage data

from the events in the database ("The information is processed to determine the

current "hot" Internet sites or pages at or near real-time, the popular sites on a

historical basis, i.e., over the past N days or hours, various usage trends, etc."

column 3 lines 40-43); and a usage indicator to display the target user's statistical

usage data on an output device ("This information can be presented to users in

the form of, e.g., a histogram displayed on the user's screen, and integrated with

link maps, directory information, and other navigation tools." column 3 lines 43-

46).

Consider claim 22. Matsliach et al. clearly shows and discloses an instant

messaging system method ("A variety of different chat or instant-messaging

technologies can be used, ..." column 9 lines 30-31).

Consider claim 23. Matsliach et al. clearly shows and discloses an e-mail

messaging system method ("User demographics: age range (and optionally, the

exact age of the user), gender, nickname, user location (state), spoken

languages, occupation, zodiac sign, family status, a mood of the user, a co-

branded community to which the user belongs and an e-mail address of the

user." column 6 lines 49-54).

Consider claim 24. Matsliach et al. clearly shows and discloses an

electronic bulletin board method ("According to the present invention, a user can

leave one or more "notes" for a particular web page, as if the page contained a

virtual bulletin board." column 4 lines 43-45).

Consider claim 25. Matsliach et al. clearly shows and discloses a method

in which the user's events are not recorded if the user has disabled monitoring

("At step 30, the system continuously monitors whether an active status of the

web page currently being viewed changes (e.g. whether the user switches to a

new URL or opens a new browser window and views a different page). When the

active status of a current page does not change, but the user opens a new

browser window, the process continues directly to step 34, discussed below.

However, when the active status of the current web page changes, the process

first completes step 32 wherein the system toggles the active page timer by, for

example, turning off the timer for the previously viewed page and beginning a

timing of the access to the newly accessed web page. In the alternative, at step

32, the active page time may simply be turned off if the user closes all open

browsers." column 11 lines 4-17).

Consider claim 26. Matsliach et al. clearly shows and discloses a watch

list method ("In addition, a list of "hot" sites can be generated based on

popularity and indexed according to common demographic parameters, such as

a user's age, gender, and occupation. Various hot site lists can be generated

according to topical category, such as business, sports, gaming, etc." column 6

lines 36-41).

Consider claim 27. Matsliach et al. clearly shows and discloses a method

wherein the compiling step only occurs if the end user is included in a target

user's access list ("Real-time hot site information is sent to users in response to

queries. The query can be topic specific or global. For a global "all the net" query,

all pages that contain registered users, including those not in the catalog, are

scanned to determine the "hottest" pages." column 6 lines 31-46).

Conclusion

Any response to this Office Action should be **faxed to** (571) 273-8300 **or**

mailed to:

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P.O. Box 1450
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Hand-delivered responses should be brought to

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Randolph Building
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Any inquiry concerning this communication or earlier communications from

the examiner should be directed to Mark Fearer whose telephone number is

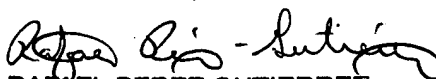(571) 270-1770. The examiner can normally be reached on Monday-Thursday from 6:30am to 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rafael Pérez-Gutiérrez can be reached on (571) 272-7915. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free) or 571-272-4100.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist/customer service whose telephone number is (571) 272-2600.

Mark Fearer
M.D.F./mdf

January 9, 2007

RAFAEL PEREZ-GUTIERREZ
SUPERVISORY PATENT EXAMINER

1/16/07